

# **CLARK COUNTY HOME/LIHTF PROGRAM GUIDE (2015)**

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This Program Guide is intended to provide additional information regarding Clark County HOME/LIHTF projects for the current application cycle. The HOME program is an exceptionally flexible federal resource and Clark County has attempted to maintain that flexibility both in terms of the type of programs funded and the way those programs get implemented. However, as the program years accumulate and as the number of additional projects and their nonprofit sponsors increase, some administrative consolidation is required. This Program Guide is primarily oriented to rental housing development and rehabilitation. Many of the general requirements apply to all project types; whenever possible requirements for other types of programs have been noted. Subsequent editions of this Guide may more fully address these other programs, until then, if you have questions concerning rental programs or other HOME-eligible activities, it is always advisable to contact Clark County Community Resources Management's HOME Program Coordinator.

**IN THIS CURRENT (2015) APPLICATION CYCLE, CLARK COUNTY WILL ONLY BE ACCEPTING APPLICATIONS FOR MULTIFAMILY PROJECTS. MULTIFAMILY PROJECTS COULD INCLUDE NEW CONSTRUCTION, REHABILITATION OR ACQUISITION WITH REHABILITATION.**

## **1. GENERAL REQUIREMENTS**

When submitting applications, include:

- The proposed project must provide permanent housing and not shelter housing or housing for workers on a seasonal basis (transitional housing is eligible under specific conditions).
- The proposed project must demonstrate that the neighborhood market conditions adequately reflect a need for the project.
- Applicants will be assessed on their development capacity and fiscal soundness.
- Applications will be evaluated to ensure that an excessive amount of federal subsidy is not proposed (underwriting). The amount of HOME/LIHTF funds provided for a development or rehabilitation may not exceed the amount that is necessary, in the County's opinion, to result in a financially feasible development or rehabilitation.
- Based upon the investment of HOME/LIHTF funds, projects must remain affordable in regard to tenant income and rental charges for the minimum periods described herein, or for Homebuyer and Homeowner Rehabilitation Programs, be subject to recapture requirements during the period of affordability.
- The proposed project must be consistent with Clark County Urban Consortium Consolidated Plan (HCP).

- Upon completion of the project, e.g., acquisition, rehabilitation, reconstruction or new construction activities, the development must meet minimum property standards further delineated in this Program Guide.
- If tenants (residential and/or commercial) reside in the property, or if the project involves acquisition, then the Uniform Relocation Act may be applicable. At a minimum, prior to submission of the application, notices for both acquisition and/or relocation must have been issued and copies of the letters and documentation of their receipt by the tenant or seller must be submitted. Estimated relocation costs must be reflected in the project proforma.

## **2. FORM OF ASSISTANCE**

HOME/LIHTF financial assistance will be provided in the form of a grant to nonprofit applicants and as a loan to any for-profit entities (Bond projects only). The County will require all such grants and loans to be secured by an acceptable Deed of Trust at the time of project funding. Funding will be awarded in an amount appropriate to the scope of a proposed project, and the needs and resources of the applicant. The County reserves the right to adjust the amount of HOME/LIHTF funds awarded to a project, and to negotiate modifications to the proposed work plan and budget prior to executing a grant agreement.

The County reserves the right to fund those projects which reflect the highest and best use of HOME/LIHTF funds, and also to place conditions on projects awarded which include, but are not limited to, requiring rents to be decreased, longer periods of affordability to be met, lower income levels to be served, etc.

## **3. ELIGIBLE APPLICANTS**

Eligible applicants include local governments and 501(c)(3) or (4) nonprofit organizations, including, but not limited to, cities, housing authorities, nonprofit community-based organizations such as community housing development organizations (CHDOs), community development corporations (CDCs), and community action programs (CAPs). For-profit firms may apply for HOME/LIHTF financing in conjunction with projects proposing to use tax-exempt financing issued by Clark County or the Nevada Housing Division for new construction or acquisition and rehabilitation of affordable rental housing in unincorporated Clark County and the Cities of Mesquite and Boulder City.

## **4. USE OF HOME/LIHTF MONIES BY RELIGIOUS ORGANIZATIONS**

HOME/LIHTF funds may be provided to primarily religious organizations, such as churches. In addition, HOME/LIHTF funds may be used to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing. The completed housing project must be used exclusively by the owner entity for secular purposes, available to all persons regardless of religion. In particular, there must be no religious or membership criteria for tenants of the property. Further clarifications may be found in HUD CPD Notice 04-10: Guidelines for Ensuring Equal Treatment of Faith-based Organizations participating in the HOME, CDBG, HOPE 3, HOPWA, Emergency Shelter Grants, Shelter Plus Care, Supportive Housing, and Youth-build Programs.

## **5. ELIGIBLE BENEFICIARIES**

Although HOME/LIHTF funds may be used to benefit households with incomes up to 80% of the area median income as determined by HUD, Clark County requires that, for rental projects, **100% of the HOME-assisted units must, at initial occupancy, be occupied by families who have annual incomes that are 50% or below median income.** See (EXHIBIT A)

## **6. ADMINISTRATIVE CAPACITY**

The Program requires that applicants have the experience necessary to administer the complex requirements of the HOME/LIHTF Program. If applicants do not have adequate experience administering other State, Federal or local programs, the County may require the applicant to contract with an experienced entity to assist in administering and managing the HOME/LIHTF project.

## **7. ELIGIBLE PROJECTS AND PROPERTIES**

One or more buildings on a single site under common ownership, management, and financing are considered a single project. Structures, containing a minimum of 5 units, scattered on more than one site, as long as the sites are under common ownership, management and financing may also be considered a single project. HOME-assisted projects may be privately or publicly owned.

## **8. INELIGIBLE PROPERTIES**

HOME funds may not be used for projects assisted under part 965 (PHA-Owned or Leases Projects--Maintenance and Operation), carry out activities authorized under part 968 (Public Housing Modernization), provide assistance to eligible low-income housing under part 248 (Prepayment of Low Income Housing Mortgages). HOME Program funds cannot be used as the "nonfederal" match for other federal, state or local initiatives, or used for shelters or commercial properties.

Sponsors of projects located in the Cities of Las Vegas, North Las Vegas and Henderson may want to contact those jurisdictions for information on their local HOME Program.

## **9. ELIGIBLE ACTIVITIES**

***New construction*** includes newly built projects, rehabilitation projects that include new construction of one or more units outside the existing walls of the structure, and any project that received its first certificate of occupancy within one year prior to receiving HOME assistance.

***Rehabilitation*** includes repairs to existing structures and the conversion of an existing structure to affordable housing. Rehabilitation also includes the reconstruction or rebuilding, on the same lot, of housing as long as the number of housing units remains the same. However, the number of rooms per units may be increased or decreased. The reconstructed housing must be substantially similar to the original housing. Reconstruction

also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing.

In addition, HOME funds may be used to assist nonprofit developers to acquire, develop, or rehabilitate a manufactured home park. The developer must retain legal title to the improved home park and must agree to rent each HOME-assisted pad to a low-income homeowner (income below 80% of the area's median income). This type of activity includes relocating existing or new owners of manufactured housing to a newly created home park, or permits the acquisition of an existing park in an effort to reduce the rental cost of the pads. Rents charged for the pads during the period of affordability will be negotiated between the developer and the County but cannot exceed the HOME rent limits. All units must meet the standard of 24 CFR 3280 at production (if constructed after June 15, 1976). Units must be connected to utility hook-ups and comply with the foundation standards described in the most current ANSI Handbook A 225.1. The appraised value of each of the units must not exceed the appraised value standards as determined by HUD for the HOME Program.

Only units receiving HOME dollars are considered "HOME-assisted Units"; therefore only HOME-assisted Units must adhere to HOME expenditure limits, and rent and occupancy guidelines. This allows HOME funds to be used for the low and very low income units in mixed income projects; however, applicants should be aware that some HUD monitoring/compliance requirements may "taint" the entire project, i.e. if only \$1 of HOME funding is part of a project, the requirement may affect all dollars in the project.

In general, HOME-assisted rental housing must provide permanent housing for low and very low-income tenants. HOME funds **may not** be used towards the acquisition, construction, or rehabilitation of residential property that will be used as temporary shelter. Transitional housing, however, is an eligible HOME activity. Transitional housing must be designed to provide housing and appropriate supportive services to persons, including, but not limited to, de-institutionalized individuals with disabilities, homeless families and children, and homeless individuals with disabilities. The purpose of the housing is to move individuals and families to independent living within a reasonable time period. HOME Applicants undertaking transitional housing must submit a transitional plan with the application which describes the housing and supportive services that will be provided to the tenants in order to transition them to independent living; the plan must include the estimated time period it will take to transition the tenants. All HOME assisted rental housing, including transitional, must offer tenants a one-year lease or a lease approved by HUD.

For new construction, conversion of non-residential space, or reconstruction projects with Single Room Occupancy (SRO) units, each SRO unit must contain either food preparation or sanitary facilities (or both). For acquisition or rehabilitation of an existing residential structure, neither food preparation nor sanitary facilities are required in each SRO unit. If individual units do not contain sanitary facilities, they must be provided in the building for tenants to share.

The County's HOME Program requires that projects funded be reasonably ready to start construction within 90 days of execution of a grant agreement. It is important that projects be ready to proceed within this time frame or HOME funds may be revoked.

## 10. ELIGIBLE HOME COSTS

Soft costs: Eligible project "soft costs" must be reasonable and necessary. Eligible "soft costs" may include the following: origination fees, credit reports, title reports, recordation fees, appraisals, attorney fees, loan fees, developer's fees, architectural and engineering fees, building permits and impact fees or system development charges, audits, and affirmative marketing and fair housing expenses.

Hard costs: HOME funds may be used for usual and customary development hard costs such as costs to meet the Clark County building code; costs to meet Fire Administration Act standards; rehabilitation and construction costs; essential improvements; energy related improvements; lead based paint hazards; accessibility for persons with disabilities; correction or replacement of major housing systems; incipient repairs and general property improvements of a non-luxury nature; appliances (only those typically found in rental housing, i.e. stoves and refrigerators); and site acquisition.

Acquisition costs: Costs of acquiring improved or unimproved real property. Acquisition of vacant land or demolition must be undertaken only with respect to the construction or reconstruction of a particular housing development intended to provide affordable housing. **HOME funds cannot be used to reimburse an applicant for a property that is already a part of their housing inventory.**

Site Improvements: Generally, HOME funds may be used to provide site improvements to the project that are in keeping with improvements of surrounding projects. Site improvements may include on-site road and sewer and water lines necessary to the development of the project. The project site is the property, owned by the project owner, upon which the property is located. HOME funds may also be used to make utility connection including off-site connection from the property line to the adjacent street.

Initial Operating Reserves: At present, the County does not support the use of HOME funds for this activity.

Relocation costs: HOME funds may also be used for the relocation costs of individuals, families, and businesses permanently or temporarily displaced by the project. HOME recipients should be aware that relocation costs will increase the total cost per unit. For more information on relocation, refer to the section titled "Uniform Relocation Act".

Developer's Fee: Funding of a developer's fee with HOME funds is an eligible expense and may be approved depending on the scope of the project and the role of the developer. The developer's fee may be used to reimburse the HOME recipient for costs to ensure compliance with HOME Program requirements. The maximum amount of HOME funds that may be expended on a developer's fee will be determined on a case-by-case basis but in all cases will be limited to 15% of the total project cost, less the developer's fee. A developer's fee is normally disbursed at the completion of the project.

**Please note** that costs incurred prior to execution of a grant agreement are at the sole risk of the developer and may not be eligible for reimbursement through the HOME Program. Therefore, you should use caution in entering into any agreement or

contracts until a grant agreement is executed. Entering into an earnest money or sales agreement for acquisition should be made contingent upon receipt of HOME funds. HUD has indicated that the use of options to obtain site control is the preferred method.

#### **11. INELIGIBLE HOME COSTS**

HOME funds cannot be used:

- to provide a project reserve account for replacements, a project reserve account for unanticipated increases in operating costs, or operating subsidies;
- to pay for off-site improvements such as sidewalks, aprons, roadways and sewer lines;
- to refinance existing debt;
- to provide assistance to a development previously assisted with HOME funds during the “period of affordability”. However, additional HOME funds may be provided to a development up to one year after “project completion”, subject to other limitations of this section, but the total amount of HOME funds in the development may not exceed the maximum per-unit subsidy amount established at 24 CFR Part 92.250.

#### **12. DETERMINATION OF THE NUMBER OF HOME-ASSISTED UNITS**

The initial calculation of the number of HOME-assisted units is achieved by multiplying the ratio of HOME funds to Total HOME Eligible Project Costs by the number of units in the project.

The number of HOME-assisted units (rounded upwards) is calculated as follows:

\$ Amount of HOME Funds (Should include all sources of HOME funds)	Divided By	Total \$ of HOME Eligible Project Costs	Multiplied By	Total # of Project Units	Equals	<u>Minimum</u> # of HOME Assisted Units

The initial determination of the number of HOME-assisted units calculated above must then be reconciled against per unit subsidy limitations identified in the next section. If per unit subsidy limitations are exceeded based on the number of HOME-assisted units calculated in this section, the number of HOME-assisted units must be increased to the point where per unit subsidy limits are not exceeded. The preliminary determination of the number of HOME-assisted units made at the time of application is subject to re-determination at the time of project completion and submission of a final cost certification.

HOME funds may only be used to pay the actual costs of HOME-assisted housing. If the units in a project are comparable in terms of size, number of bedrooms, and amenities, then the actual costs can be determined by pro-rating the total development costs. The

HOME Program would pay the pro-rated share of the HOME-assisted units. When units are not comparable, HOME funds may only pay the actual costs incurred for the HOME-assisted units. In this case, the true and actual costs for rehabilitating or constructing each HOME-assisted unit must be calculated and separated from the total project costs.

### **13. MINIMUM AND MAXIMUM PER UNIT SUBSIDY**

The minimum investment of HOME funds is \$1,000 per unit.

The maximum amount of HOME subsidy cannot exceed the lesser of and is limited by:

- The number of HOME assisted units in the project - The HOME assistance cannot exceed the maximum subsidy allowed per HOME unit. The maximum per unit subsidies, adjusted by bedroom size, are listed below.
- The financial needs of the project - HOME projects may not receive more subsidy than is required to produce financially feasible projects.

#### **Maximum Per-Unit Subsidy Limits** (Effective May 8, 2012)

<b>Number of Bedrooms</b>	<b>Maximum Per-Unit Subsidy (Elevator)</b>
0	\$132,814
1	\$152,251
2	\$185,136
3	\$239,506
4 and Larger	\$262,903

HOME assistance cannot exceed the actual per unit development costs for the HOME assisted units in the project. To determine compliance with maximum per unit subsidy limitations applicants should complete the following analysis:

#### **HOME-Assisted Units**

# OF 0 B/R UNITS	#	X	\$132,814	=	
# OF 1 B/R UNITS	#	X	\$152,251	=	
# OF 2 B/R UNITS	#	X	\$185,136	=	
# OF 3 B/R UNITS	#	X	\$239,506	=	
# OF 4 B/R UNITS	#	X	\$262,903	=	
TOTAL				=	

\* The amount of HOME funds requested may not exceed this amount, based on the number of HOME-assisted units proposed. If the amount of HOME funds requested exceeds this amount, the applicant must either (i) reduce the amount of HOME funds requested to the total amount specified above, or (ii) commit the additional number of HOME-assisted unit(s) necessary to increase the allowable subsidy to the amount that, minimally, equates to the amount of HOME funds requested.

\* Twelve (12) or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332). The wage provisions apply to any construction contract that includes a total of 12 or more HOME-assisted units, whether one or more than one project is covered by the construction contract. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions other than the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted.

#### **14. MATCH**

Beginning in FY 93, participating jurisdictions were required to contribute funds to match federal assistance they receive under the provisions of HOME. Except in economically distressed areas, HOME activities require a non-federal match of 25%. The match need not be in cash. Infrastructure, foregone taxes, waived fees, and in some cases, sweat equity may be used as match. Currently, it is anticipated that the Low-Income Housing Trust Fund will provide sufficient match for the HOME program.

#### **15. UNDERWRITING AND SUBSIDY LAYERING**

HOME/LIHTF funds are often used in conjunction with other funding sources including Low Income Housing Tax Credits and Private Activity Bonds. The HOME/LIHTF funds fill in "gaps" in the financial layering that is required to complete large new construction and rehabilitation projects. Local priority is also given to projects that have applied for Continuum of Care funding such as the Supportive Housing Program, with a particular focus on permanent supportive housing.

HOME projects will be evaluated in conformance to 92.250(b) and HUD Notice CPD 98-01 to ensure that each project is underwritten to be financially viable for the duration of the affordability period and an excessive amount of federal subsidy, or "layering", is not being proposed and. During the underwriting and subsidy layering review, the County will evaluate the need for the HOME funds. The review can result in a reduction of HOME assistance, reduction in rents, or operating expenses. Factors looked at during the review include:

- Use of HOME funds in combination with other governmental assistance

- Examining the sources and uses for each project and determine whether the costs are reasonable
- Assess the market conditions of the neighborhood in which the project will be located
- Assess the experience and financial capacity of the developer
- Determine whether there are firm financial commitments for the project
- Assess the reasonableness of profit or return to the owner or developer, for the size, type, and complexity of the project.
- Low income benefit

## 16. **PROPERTY STANDARDS**

HOME program property standards have been significantly revised in the 2013 HOME final Rule. The following is a brief summary of these standards. For a more detail please refer to Section 92.251.

### a) New Construction Projects

92.251(a)(1) requires new construction projects to meet State and local codes, ordinances, and zoning requirements. This requirement is not new. In the absence of an applicable State or local code for new construction, HOME-assisted projects must meet the International Code Council's (ICC's) International Residential Code or International Building Code, whichever is applicable to the type of housing being developed. In addition to the Accessibility requirements in accordance with Section 504 of the Rehabilitation Act Disaster mitigation standards, in accordance with State and local requirements or as established by HUD, where they are needed to mitigate the risk of potential disasters (such as earthquakes, hurricanes, flooding, and wildfires).

### b) Rehabilitation Projects

Community Resources Management is revising and improving on the written rehabilitation standards of both Multi-family and Single family projects. The standards will include at a minimum (1) Health and Safety, (2) Major Systems for rental and homeownership housing, (3) Lead-based paint requirements (4) Accessibility requirements, (5) Disaster mitigation standards, (6) State and local codes, ordinances, and zoning requirements. Please contact your HOME program specialist for more details.

Please note\* **A Capital Needs Assessment for multifamily rental housing with 26 or more units, done by a certified, independent third party is required as part of the HOME regulations that ensures that all work that will be performed and identifies and addresses long-term physical needs of the project.**

For property standards that cover **Acquisition of Standard Housing, Tenant-Based Rental Assistance, and Manufactured Housing** please contact your HOME program specialist.

## **17. NON-DISCRIMINATION & ACCESSIBILITY STANDARDS**

Three different sets of non-discrimination requirements apply to the HOME Program: Section 504 of the Federal Rehabilitation Act of 1973; the Fair Housing Act of 1988; and the Americans with Disabilities Act (ADA). Both new construction and rehabilitation of multi-family housing assisted with HOME funds are subject to and must meet the standards of Section 504. Section 504 standards apply to all units in a project and not just the HOME-assisted units.

For new construction of all multi-family units and for rehabilitation projects with 15 or more units for which the rehabilitation cost will equal at least 75% of the replacement cost: 5% of the units in the project must be accessible to individuals with mobility impairments, and an additional 2% must be accessible to individuals with sight and hearing impairments.

When rehabilitation is less extensive, then: every alteration to a unit must make the unit accessible to the maximum extent feasible until 5% of the units in the project are fully accessible to people with mobility impairments. Alterations to common spaces must always make the project accessible to the maximum extent feasible. The Fair Housing amendments should be consulted with regard to the rehabilitation of 1-4 unit rental properties, which are not eligible under this funding cycle.

Section 504 accessibility standards are further described in the Uniform Federal Accessibility Standards (UFAS). HOME applicants should provide this information to their architects early in the process to ensure that projects meet the accessibility criteria as defined in Section 504.

New construction of certain multi-family housing projects is also subject to the accessibility requirements in the Fair Housing Act of 1988. The Americans with Disabilities Act (ADA) has a broader application than the Fair Housing Act or Section 504, in that it addresses employment practices, public services, transportation and public accommodations. Although the ADA does not specifically address residential housing, since housing is covered by Section 504 and the Fair Housing Act of 1988, HOME recipients should be aware of the ADA's scope and requirements.

HOME recipients will need to verify that the plans/specifications meet the Section 504, ADA and Fair Housing standards prior to signing a grant agreement. Architects or other qualified persons must verify at the completion of the project that the constructed/rehabilitated units have met these standards.

## **18. PERIODS OF AFFORDABILITY**

Deed restrictions must be placed on all projects that receive HOME funds to ensure affordability regarding income and rent limitations. The term of affordability is based upon the investment of HOME funds per unit:

ACTIVITY	PER UNIT AMOUNT OF HOME FUNDS	PERIOD OF AFFORDABILITY
Rehabilitation and Acquisition of Housing	\$1,000 - \$14,999	5 Years
	\$15,000 to \$39,999	10 Years
	\$40,000 and over	15 Years
New Construction or Acquisition of Newly-Constructed Housing	Any Amount	20 Years

HOME applicants may propose longer periods of affordability in an effort to receive additional consideration in the competitive rating process; however, the rent and occupancy restrictions must be reflected in the deed restriction, and must be maintained for the extended period.

The Period of Affordability begins on the date in which the project is complete as evidenced by HUD acceptance of a Project Completion Report, submitted by the County. The Period of Affordability ends after the designated number of years has elapsed and the project sponsor submits a request for Release of Lien together with a current (completed during the previous 60 days) "passed" HQS Inspection Report for each HOME-assisted unit.

All costs related to releasing the lien(s) shall be at the expense of the project owner. The applicant should note that a reduction in development costs during the development phase, without a commensurate reduction in the sources of funds may result in an amended determination of the number of HOME-assisted units. This, in turn, may result in a change in the per-unit subsidy determination, which may then effect the term of the Period of Affordability.

#### **19. INITIAL OCCUPANCY OF HOME-ASSISTED UNITS**

HOME rules are very clear about who can rent HOME-assisted units. **Clark County requires that 100% of HOME-assisted rental units be initially occupied by families whose incomes do not exceed 50% of the median family income. Exceptions to this rule may be considered on a case-by-case basis such as for a mixed-income project.** Homebuyer and Homeowner Rehabilitation Programs may be used to assist households at or below 80% of AMI.

#### **20. ALLOWABLE HOME RENTS**

**Clark County requires that 100% of HOME-assisted rental unit rents will not exceed the Low HOME Rent limits established by HUD.**

Every HOME-assisted unit is subject to rent controls designed to make sure rents are affordable to low and very low-income tenants. Rents must be controlled for the period of affordability. Generally speaking, there are two HOME rents that apply to a project:

**“High HOME” Rent:**

No more than 80% of the HOME-assisted units in a project shall have rents that are the lesser of:

- The Section 8 Fair Market Rents (FMRs) or area-wide exception rents for existing housing minus tenant paid utilities; or
- The HUD published High HOME Rents. (High HOME Rents are equal to 30% of adjusted income for households at 65% of median income).

**“Low HOME” Rent:**

For projects containing 5 or more units, a minimum of 20% (rounded up) of the HOME-assisted units in a project must be occupied by persons or families whose income does not exceed 50% of the area median income, as determined by HUD, adjusted for family size. Rental charges for units under this section (“Low HOME” units) may not exceed:

- 30% of the gross income of a family whose income equals 50% of the area median income, as determined by HUD, adjusted for family size, less the monthly allowance for tenant paid utilities, OR
- For units in a project covered under a “project-based” State or Federal Subsidy Program (Section 202, Project Based Section 8, USDA-RD 515, etc.), the maximum rent allowed under the Federal or State Project-Based Rental Subsidy Program, except that the low-income occupant/family may not pay as a contribution toward the full rental charge, more than 30% of the occupant’s/families’ monthly “Adjusted Income”, as determined by HUD. OR
- The “Low HOME Rents” may not exceed the “High HOME Rents”.

To determine the maximum allowable rents, refer to the tables in **Exhibit B**, which list the Fair Market Rents, High HOME Rents, and Low HOME Rents for Clark County. The rents are adjusted based on the number of bedrooms in the unit. These rents include utility costs. The HOME rents must be reduced to reflect the amount of all utilities (except telephone and TV cable) that will be paid by the tenant. Project sponsors should coordinate with their local Public Housing Authority (PHA) to determine allowances for adjusting the maximum allowable HOME rents when some or all utilities are paid by the tenant. Please note that utility allowances proposed by project sponsors must be approved by the County, so documentation from your local PHA is important.

Rents for group homes and single room occupancy (SRO) units are an exception to the above rent limitations. Group home rents are based on the appropriate Fair Market Rent for the number of bedrooms in the group home. If a bedroom is used for a live-in service provider, then this bedroom is not counted when calculating the rent. For example: a four-bedroom group home where all bedrooms are used for tenants could have a maximum rent equal to the FMR for a four-bedroom unit. Should a four-bedroom group home have a live-in service provider occupying a bedroom, then the maximum HOME rent would equal the FMR for a three-bedroom unit.

The maximum HOME rent for an SRO that has either food preparation or sanitary facilities, or has neither of these, cannot exceed 75% of the FMR for a zero bedroom unit. For an SRO unit with both food and sanitary facilities contained within the unit, the Low HOME and High HOME rents for zero bedroom units apply.

## **21. TENANT SELECTION CRITERIA**

HOME recipients must adopt written tenant selection policies that:

- Are consistent with the purpose of providing housing for low and very low income persons;
- Are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;
- Give reasonable consideration to the housing needs of families that would have a federal preference under Section 8 Program (i.e., occupy substandard housing or are homeless, are paying more than 50% of household income for rent, or are involuntarily displaced);
- Provide for selection of tenants from a written waiting list in the chronological order of their applications; and
- Provide for the prompt written notification to any rejected applicant of the ground for any rejection.

## **22. DETERMINING THE INCOME ELIGIBILITY OF HOME TENANTS**

To determine a household's potential eligibility to occupy a HOME-assisted unit, the annual income of each household occupant over the age of 18 must be assessed when calculating the total household income.

The following items are included as income, according to HUD guidelines:

- All sources of money an individual or family member receives (wages, welfare payments, alimony, social security, pension, etc.)
- Any money an individual receives on behalf of his/her children (child support, social security for children, etc.)
- Income from assets (interest from a savings account, credit union, or certificate of deposit, dividends from stock, etc.)
- Earnings from a second job or part time job
- Any anticipated income (such as a bonus or pay raise expected to be received)

Assets include all bank accounts, savings bonds, certificates of deposit, stocks, real estate, etc., that are owned by an individual or any adult member of the individual's

family/household who is living with them. Assets also include any business or asset the individual sold in the last two years for less than its full value, such as selling a home to one's children. Recipients of HOME funds should refer to [HUD's "Technical Guide for Determining Income and Allowances for the HOME Program"](#) for more detailed information on calculating income of tenants.

### **23. LEASE CONDITIONS AND RESTRICTIONS**

The length of a lease for a HOME-assisted unit must not be less than one year, unless otherwise modified by *mutual* agreement between owner and tenant.

In addition, the HOME Program also prohibits certain provisions from being included in the lease. These lease provisions will be incorporated into the HOME recipient's Grant Agreement.

At a minimum, termination of tenancy or refusal to renew a lease may only be for serious or repeated violation of the terms and conditions of the lease; for violation of applicable federal, state, or local law; for completion of the transitional housing tenancy period; or for other good cause. Termination or refusal to renew must be served upon the tenant a minimum of 30 days in advance. There is no exception to the 30-day notice for tenants residing in a HOME-assisted unit, as this is a statutory requirement.

### **24. COMPLIANCE RESPONSIBILITIES DURING PERIOD OF AFFORDABILITY**

HUD will publish the HOME Program Rents on an annual or periodic basis. Depending upon HUD's calculations, the HOME Program Rents may increase or decrease. The HOME recipient is responsible for recalculating HOME maximum monthly rents and utility allowances on an annual basis. All recalculations of rent and utility allowances must be reviewed and approved by the Department prior to changes being implemented, and tenants must be given at least 30 days' written notice of any increase. All increases are also subject to other provisions of the lease agreements.

The HOME recipient must annually provide to the County documented certification, in a format acceptable to the County, that the income of each of the tenants residing in a HOME-assisted unit is within the allowable HOME income limits. Tenants may remain in their unit should their income increase over 80% of median income; however, the tenant's rent and utilities must be adjusted to 30% of the monthly income.

During the period of affordability, the HOME recipient must ensure that HOME-assisted units comply with all local housing code requirements and HUD's published Housing Quality Standards (HQS). The inspections must be made by an individual or agency that is familiar with and certified to complete a review of building code and Housing Quality Standards. The HOME recipient may need to coordinate with a local housing authority or an inspection agency that has the ability and qualifications to complete this inspection.

The County will annually assess a project's affirmative marketing program to determine the success of affirmative marketing activities and any necessary corrective actions.

## **25. BID SOLICITATION AND CONTRACTING**

Under certain conditions, the HOME Program may not generally require formal competitive bids. However, HOME does require evidence that bids are cost reasonable in accordance with 24 CFR Parts 84 and 85. To assure cost reasonableness, we highly encourage HOME recipients to get multiple bids for each contract (we encourage three bids). If awarded HOME funds, it will be necessary for you to provide documentation illustrating the method used to obtain bids and copies of the multiple bids.

Additionally, HOME recipients must do outreach to encourage participation by minority and women-owned business enterprises. When advertising for bids, HOME recipients must include a statement that says "minority and women-owned businesses are encouraged to apply."

The County maintains a list of all minority and women-owned businesses. Each recipient should request a list of the MBE/WBE contractors located in the area of their project and should offer the contractors an opportunity to submit a bid.

The HOME recipient should also follow through with the outreach efforts identified in their response to application questions concerning MBE/WBE outreach.

All work should be covered by written contracts stating, minimally, start and end dates, scope of work and contract amount.

Finally, before you bid and award a contract you must be aware of and follow Section 3 standards and Davis-Bacon wage requirements as applicable.

## **26. HOME AWARD AND GRANT AGREEMENT**

Should your project be awarded HOME funds, it will be necessary for you to meet all the conditions of the award before a Grant/Loan Agreement can be executed. Generally speaking, it has taken some sponsors just a matter of weeks and others 6 or more months to meet the conditions of award. It is therefore necessary for you to have adequate time lines, particularly with multiple funding sources.

One of the conditions of award will be the completion of a satisfactory environmental review. The environmental review process must be completed and, if required, a release of funds obtained from HUD prior to taking any "choice-limiting" actions on the project site. In other words, you cannot undertake any action or activity that could limit the project to the specific site or perform any physical development activities on the site until a release of funds is obtained from HUD. This includes, but is not limited to, demolition or construction work. **It doesn't matter whether these activities are to be paid for with HOME funds or some other source of funds, including your own resources. No activities can be undertaken until the County completes an environmental review in accordance with 25 CFR Part 58.** Doing so could jeopardize an award of HOME funds.

Another condition is that all other funding proposed for the project must be committed before the County will execute a grant agreement for HOME funds. HOME recipients will be allowed 120 days from the date of grant award notification to document that all other

sources have been committed to the project and all other conditions of award have been met. HOME recipients must request an extension if they cannot meet the conditions of award within the 120 day time period. Extensions will be granted on a case-by-case basis and will be dependent upon the progress that the HOME recipient has taken to meet the conditions of award.

At the discretion of the County, applicants may be required to participate in a Project Implementation Workshop prior to executing a Grant Agreement.

Once all other funding sources are committed and all conditions of award met, applicants should allow four to six weeks to execute a contract and begin drawing down HOME funds. The Board of County Commissioners must approve all HOME/LIHTF Grant Agreements. Additionally, the County's ability to disburse funds is contingent on the receipt of funds from HUD.

The County cannot advance HOME funds; the HOME recipient must incur costs and request reimbursement from the County. Grant funds can only be used for eligible HOME costs incurred after a grant agreement has been fully executed, i.e., signed by both the HOME recipient and the County.

## **27. HOME AGREEMENT REQUIREMENTS**

HOME fund recipients will be required to enter into a HOME Agreement which will include, but not be limited to, the following:

- A statement of the intended use of the HOME funds, specifying how the funds will be used in connection with the HOME Program;
- A detailed budget schedule appropriate to the scope of the development;
- A timetable listing the steps considered necessary for the timely completion of the development and listing the schedule for the payment of the HOME funding;
- A provision for the administration of the HOME funds according to generally accepted financial accounting procedures, for regular periodic reporting to the County of HOME-sponsored activities, and for the disposition of funds in accordance with the intended use;
- A provision for the cessation of HOME payments if the County determines that the applicant is not using HOME funds for its intended purposes or is not proceeding satisfactorily with the development of the project;
- A provision requiring compliance with HOME program requirements (24 CFR Part 92) and the provisions of the HOME Agreement for the period of affordability;
- A statement acknowledging that the applicant and its architect, and not the County, are responsible for obtaining necessary licenses and permits, if any, for ensuring that all aspects of the development comply with all applicable laws, regulations, ordinances, and codes, and for all costs of the development in excess of the

amount of approved grant; and

- A promise to defend and hold harmless, the County from any action arising from its alleged failure to award HOME funds under the applicable program.

## **28. RESTRICTIONS OF GRANT AWARD**

If the project changes purpose without prior approval by the County and no longer adheres to the original intent as described in the application, the County may revoke use of the HOME funds for the project and require repayment of all expended HOME funds.

HUD will not let HOME recipients "buy out" of the affordability requirements regarding tenant incomes and rent. Under all circumstances, the deed restrictions will stay in effect and run with the land for the term of affordability.

If HOME funds are spent on a project that is terminated before completion, whether voluntarily by the HOME recipient (or authorized contractor or sub-recipient) or otherwise, an amount equal to the HOME funds disbursed for the project must be repaid to the County's local HOME account.

Breach of the deed restrictions may result in the County revoking an existing HOME award, withholding unexpended HOME funds, requiring repayment of expended HOME funds, and barring a recipient from applying for future HOME assistance.

## **29. PROGRESS REPORTS**

Progress reports must be submitted to the County's HOME Project Coordinator on a semi-annual basis after the HOME Grant Agreement has been executed, whether or not the project is requesting reimbursement of HOME funds.

The HOME recipient's financial system must be capable of generating regular financial status reports which indicate the dollar amount allocated for each activity, including any budget revisions, the amount obligated, and the amount expended for each activity for each funding source. The system must permit the comparison of actual expenditures and revenues against budgeted amounts.

Additionally, at the end of the fiscal year you will be required to submit HOME/LIHTF beneficiary data on all projects completed during the preceding year and a report on all contractor activity.

## **30. RETAINAGE OF FUNDS**

Ten percent (10%) of the HOME allocation will be retained until the project is completed and the HOME recipient submits documentation showing that the HOME-assisted units meet the appropriate Standards and, as applicable, that the project has received an occupancy certificate and that the sponsor has certified that the completed units meet Section 504 accessibility standards.

### **31. FINAL COST CERTIFICATION**

Additionally, within sixty (60) days of development completion, the recipient shall provide to the County a certified statement of Final Development Costs. The certification shall include:

- A report of all expenditures, costs, and disposition of all development and all HOME funds;
- A summary report of all work completed by budget category;
- A certification that HOME funds provided by Clark County were used in accordance with the HOME Agreement;
- The signature of the recipient's Executive Director (or equivalent) or designated representative certifying that the information provided on the Final Cost Certification is a true and accurate statement of Total Development Costs and expenditures of HOME funds for the development;

Include the following attachments:

- Project photographs showing the work completed under the HOME Agreement;
- A Project Completion Report (form HUD 40097)
- A Contract and Subcontract Activity Report (form HUD 2516)

### **32. RECORD KEEPING AND RETENTION**

The recipient must establish and maintain sufficient records to enable the County, or its designee, to determine whether the recipient has met the requirements of the HOME Agreement.

At a minimum, the following records shall be kept by the recipient:

- Records that demonstrate that the project meets the property standards in 24 CFR Part 92.251;
- Records that demonstrate that the rental project meets the affordability requirements of 24 CFR Part 92.252. Records must be kept for each family assisted;
- Records that demonstrate compliance with the Tenant and Participant Protections requirements of 24 CFR Part 92.253;
- Equal opportunity and fair housing records containing data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME funds;

- Documentation of actions undertaken to meet the requirements of 24 CFR Part 92.350 which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701 u);
- Document and data on the steps taken by the recipient to implement outreach programs to minority-owned and female-owned business including data indicating racial/ethnic or gender of each business entity receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with HOME funds; the amount of the contract or subcontract, and documentation of the recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services;
- Documentation of the actions the recipient has taken to affirmatively further fair housing;
- Records indicating the affirmative marketing procedures and requirements under 24 CFR Part 92.351;
- If applicable, records which demonstrate compliance with the requirements of 24 CFR Part 92.353 regarding displacement, relocation, and real property acquisition, including project occupancy lists identifying the name and address of all persons occupying the real property on the date described in 24 CFR Part 92.353 (c)(2)(1)(A), moving into the property on or after the date described in 24 CFR Part 92.353 (c)(2)(1)(A), and occupying the property upon completion of the project;
- Records demonstrating compliance with labor requirements in 24 CFR Part 92.354 (Davis Bacon Requirements), including contract provisions and payroll records;
- Records concerning lead-based paint under 24 CFR Part 92.355;
- Records demonstrating compliance with flood insurance requirements under 24 CFR Part 92.358;
- Records of written agreements and monitoring required by 24 CFR Part 92.504;
- Financial and related records required by 24 CFR Part 92.505;
- Records of audits and resolution of audit findings; and
- The Invoices, purchase vouchers, payrolls, and project records showing how funds were spent must be secured and retained for three years after grant closeout. Please note that a grant does not "close out" until the HOME period of affordability has been met, i.e., 5, 10, 15, or 20 years.

### **33. ADDITIONAL RESOURCES**

Additional resources related to the HOME Program may be found on HUD's HOME web page at:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm>

and at Clark County's web page at:

[http://www.clarkcountynv.gov/Depts/admin\\_services/comresmgmt/Pages/HOME.aspx](http://www.clarkcountynv.gov/Depts/admin_services/comresmgmt/Pages/HOME.aspx)

EXHIBIT A

HOME PROGRAM - INCOME GUIDELINES  
U.S. Department of Housing and Urban Development (HUD)  
HOME Program - Income Limits (01/22/2014)

FAMILY SIZE	INCOME NOT TO EXCEED		
1	30%	\$12,950	
	50%	\$21,550	(Very Low Income)
	60%	\$25,860	
	80%	\$34,450	(Low-Income)
2	30%	\$14,800	
	50%	\$24,600	(Very Low Income)
	60%	\$29,520	
	80%	\$39,400	(Low-Income)
3	30%	\$16,650	
	50%	\$27,700	(Very Low Income)
	60%	\$33,240	
	80%	\$44,300	(Low-Income)
4	30%	\$18,450	
	50%	\$30,750	(Very Low Income)
	60%	\$36,900	
	80%	\$49,200	(Low-Income)
5	30%	\$19,950	
	50%	\$33,250	(Very Low Income)
	60%	\$39,900	
	80%	\$53,150	(Low-Income)
6	30%	\$21,450	
	50%	\$35,700	(Very Low Income)
	60%	\$42,840	
	80%	\$57,100	(Low-Income)
7	30%	\$22,900	
	50%	\$38,150	(Very Low Income)
	60%	\$45,780	
	80%	\$61,050	(Low-Income)
8	30%	\$24,400	
	50%	\$40,600	(Very Low Income)
	60%	\$48,720	
	80%	\$64,950	(Low-Income)

EXHIBIT B

HOME PROGRAM RENT LIMITS		
U.S. Department of Housing and Urban Development (HUD)		
HOME Program - Rent Limits (06/01/2013)		
UNIT SIZE	MAXIMUM RENTS	
Efficiency	LOW HOME RENT	\$577
	HIGH HOME RENT	\$650
	FOR INFORMATION ONLY:	
	FAIR MARKET RENT	\$650
	50% RENT LIMIT	\$577
	65% RENT LIMIT	\$731
1 - Bedroom	LOW HOME RENT	\$618
	HIGH HOME RENT	\$785
	FOR INFORMATION ONLY:	
	FAIR MARKET RENT	\$812
	50% RENT LIMIT	\$618
	65% RENT LIMIT	\$785
2 - Bedroom	LOW HOME RENT	\$742
	HIGH HOME RENT	\$944
	FOR INFORMATION ONLY:	
	FAIR MARKET RENT	\$1,000
	50% RENT LIMIT	\$742
	65% RENT LIMIT	\$944
3 - Bedroom	LOW HOME RENT	\$858
	HIGH HOME RENT	\$1,082
	FOR INFORMATION ONLY:	
	FAIR MARKET RENT	\$1,474
	50% RENT LIMIT	\$858
	65% RENT LIMIT	\$1,082
4 - Bedroom	LOW HOME RENT	\$957
	HIGH HOME RENT	\$1,188
	FOR INFORMATION ONLY:	
	FAIR MARKET RENT	\$1,749
	50% RENT LIMIT	\$957
	65% RENT LIMIT	\$1,188
5 - Bedroom	LOW HOME RENT	\$1,056
	HIGH HOME RENT	\$1,291
	FOR INFORMATION ONLY:	
	FAIR MARKET RENT	\$2,011
	50% RENT LIMIT	\$1,056
	65% RENT LIMIT	\$1,291
6 - Bedroom	LOW HOME RENT	\$1,155
	HIGH HOME RENT	\$1,396
	FOR INFORMATION ONLY:	
	FAIR MARKET RENT	\$2,274
	50% RENT LIMIT	\$1,155
	65% RENT LIMIT	\$1,396

